September 22, 1970

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Affidavit in the Weisberg Case

L- Mr. Robert F. Williams

Enclosed is a revised draft of the affidavit you requested. We are keeping a copy. If you will let Mr. Johnson know whether the draft is satisfactory, we will type the affidavit in final form.

Concerning paragraph 9, the three members of our staff (Mr. Johnson, Mr. Simmons, and Mr. Howerton) who might have received an oral request by Mr. Harold Weisberg to be shown the clothing of President Kennedy or to be allowed to photograph it do not recall receiving such a request. It may be noted that Mr. Weisberg states that his oral request was made prior to August 6, 1967, and that he made written requests on and subsequent to that date. We have reviewed our voluminous correspondence with him since that date. Enclosed are copies of the only letter of August 6, 1967, from Mr. Weisberg that we have on file, as well as two letters of August 17 and 18, 1967, that we sent him in reply. These letters do not contain a request to see the clothing or a denial of such a request, although the letter from Mr. Weisberg does ask the question (page 2), "But may I ask if the clothing is not in evidence?" The NARS letter which Mr. Weisberg presents as Exhibit B to his Complaint and which he says denied his requests is dated August 4, 1967, and contains no denial of any requests to see and photograph the clothing.

Mr. Weisberg apparently showed no interest in seeing the clothing of President Kennedy or in having it photographed until we told an acquaintance of his, Mr. Howard Roffman, in a letter of October 28, 1969 (copy enclosed), that we do not show President Kennedy's shirt to researchers or sell any photographs of it except those in the records of the Warren Commission. Mr. Weisberg then wrote us in a letter of December 1, 1969 (copy enclosed), that at some previous time he had asked Mr. Johnson about access to President Kennedy's shirt and tie. Mr. Johnson did not recall such a request, as indicated by his note in the margin of the letter. He thinks that it is very improbable that he would have said that he "presumed it [the shirt and tie] could not be seen," as he has never been in any doubt about the proper procedure. From the time the clothing of President Kennedy was given to GSA, we have declined to show it to researchers and have instead made photographs which we show to researchers but do not sell to them. If Mr. Weisberg had asked about having photographs of the clothing taken for him as he says he did, he would probably have been told immediately, as other researchers have been told, that we do not sell copies of any photographs of the clothing except those in the records of the Warren Commission. In our reply of January 22, 1970, to this and other letters from Mr. Weisberg (copy enclosed), we said merely (page 3) that we do

not prepare special photographs of President Kennedy's clothing for researchers.

In a conversation with Mr. Johnson in April 1970, Mr. Weisberg requested enlargments of portions of the photographs of President Kennedy's shirt that we show to researchers instead of the shirt itself. When his request was refused, he requested a written reply in order that he could appeal from the refusal. In response to this request, we sent him the letter of April 16, 1970, of which a copy is enclosed. As you will note, the letter includes the statement that we prepared photographs of the shirt and coat of President Kennedy to show to researchers instead of the clothing itself. We do not sell these photographs.

We understand from your telephone conversation with Mr. Johnson that you do not consider that these dealings with Mr. Weisberg involved a specific request by him to see and photograph President Kennedy's clothing or a refusal of such a request by NARS. With this understanding, we have included paragraph 9 in the affidavit. We think that it is possible Mr. Weisberg may contend that he should not be required to make formal requests of NARS before filing suits because of delay by NARS in replying to his many letters. Most of the delay has been caused by Mr. Weisberg's frequent threats to file lawsuits against NARS and the necessary consideration by L of our replies to his letters.

As you know, the clothing of President Kennedy was donated to GSA by the Kennedy family under the terms of 44 U.S.C. 397(e) (1). The provisions of the "Freedom of Information Act" (5 U.S.C. 552) therefore do not, in my opinion, apply to the clothing.

Sincerely,

JAMES B. RHOADS
Archivist of the United States

Enclosures

CC: Official file -NND
Reading file -NNDC ✓
Day file -- N

MJohnson/sb X23171

NND_____

NN_____